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Patricia L. Mesuch

Date of Signature

11-12-03

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
FLEENOR et al.)
Serial No.: 09/998,465) Group Art Unit: 2874
Filed: November 30, 2001) Examiner: WOOD, K.S.
For: Fiber Optic Component Marking With)
Fiber Optic Indicia)

VIA FIRST CLASS MAIL
Group Art Unit: 2874
Examiner: Kevin S. Wood
7 PAGES

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**DECLARATION UNDER 37 C.F.R. § 1.131 OF INVENTORS
PAUL A. FLEENOR, DENNIS M. KNECHT AND JOEL C. ROSSON**

We, the undersigned inventors of the above-identified patent application, having first been duly warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001), and may jeopardize the validity of the application or any patent issuing thereon, hereby declare and acknowledge the following:

1. We are the joint inventors of the subject matter of claims 1-23 pending in United States patent application Serial No. 09/998,465 (hereinafter “the present application”).
2. Claims 1-4, 6, 7, 9-12, 15-18 and 20-23 of the present application stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,542,673 (“the ‘673 patent”). Claims 12 and 13 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. 2002/0003934 (“the 2002/3934 application”). Claims 5, 8 and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable (i.e., obvious) over the ‘673 patent.
3. The ‘673 patent is a continuation-in-part of U.S. Patent Application No. 09/318,451 filed on May 25, 1999, which issued on June 11, 2002, as U.S. Patent No. 6,404,953 (“the ‘953 patent). The ‘953 patent is a continuation-in-part of U.S. Patent Application No. 08/819,979 filed on March 13, 1997, which issued on September 14, 1999, as U.S. Patent No. 5,953,477 (“the ‘477 patent”). Thus, the ‘673 patent claims the benefit of priority from the earlier filed ‘953 patent and ‘477 patent. The ‘673 patent also claims the benefit of priority from U.S. Provisional Application No. 60/213,983 filed on June 24, 2000.
4. With regard to the inventions of claims 1-23 of the present application, the ‘953 patent merely discloses a mask **12** comprising a filter **13** that is positioned adjacent the end of an optical fiber **11**. The mask **12** further comprises an identifier space **15** (FIG. 1), **35** (FIG. 3); **45** (FIG. 4); **55** (FIG. 5); and **65** (FIG. 6) “reserved for a micro bar code, magnetic or other identification information that will assist in assuring appropriate alignment and mating of the optical assemblies.” ‘953 patent at column 5, lines 57-60. Beginning at column 5, line 60, the purpose and content of the identifier space is further described as:

For example, the mask dimensions and characteristics could be identified. In addition, the fiber’s core and polarization axes can be identified with respect to the location of the identifier and the mask aperture location, configuration and dimensions. Also, the core dimension and location can be identified. When fiber to fiber connections are made, often testing and aligning can be a time consuming task.

Proper information in the identifier space could minimize the testing burden. Using code in identifier space 15 to reference specific, detailed computer link information would allow for unlimited information about the optical assembly. The identifier information could be located at other locations *on the mask*, but the space is desirably located where it could be used in automating manufacturing systems. If the optical assembly is likely to be end to end connected to another assembly in which subsequent identification is useful, for example as illustrated in FIG. 6, and FIG. 7, an identifier on the edge can be used. (emphasis added).

5. With regard to the inventions of claims 1-23 of the present application, the '477 patent *provides no disclosure* of: a ferrule comprising a fiber optic indicia formed on a predetermined portion of a surface of the ferrule (i.e., claims 1-8); a method of marking a predetermined portion of a surface of a component of a fiber optic assembly in accordance with a predetermined pattern of a fiber optic indicia (i.e., claims 9-20); or a method of marking a ferrule of a fiber optic assembly in accordance with a predetermined pattern of a fiber optic indicia (i.e., claims 21-23).
6. Based on the disclosures of the '953 patent and the '477 patent, the earliest effective filing date attributable to the subject matter of the '673 patent that is relevant to the inventions of the present application is the filing date of the '953 patent (i.e., May 25, 1999). In other words, the chain of priority for the disclosure of subject matter that relates to the marking of a fiber optic component of a fiber optic assembly with a fiber optic indicia associated with information about the fiber optic assembly begins with the filing date of the '953 patent and does not extend to the filing, or priority, date of the '477 patent.
7. The inventions embodied in claims 1-23 of the present application were completed (i.e., conceived and reduced to practice) in this country or in a NAFTA or WTO member country before May 25, 1999, the effective priority filing date of the '673 patent.
8. The inventions embodied in claims 1-23, and in particular, the independent claims 1, 9 and 21, of the present application are described in an electronic mail communication from

an inventor (i.e., Joel C. Rosson) of the subject matter of the pending claims 1-23 dated October 1, 1998, a true and correct redacted copy of which is attached hereto as Exhibit A (hereinafter “the Rosson email”).

9. The Rosson email shows and describes a ferrule comprising a ferrule body defining a forward end, an opposed rearward end (inherent) and at least one passageway extending between the forward end and the rearward end. The Rosson email further shows and describes a fiber optic indicia (i.e., S15; 98; 362; ZZZZ) formed on a portion of a surface of the ferrule (i.e., the endface) wherein the fiber optic indicia comprises optical characteristic and/or product characteristic data about the ferrule assembly (i.e., fiber mode; ferrule OD; fiber bore concentricity/eccentricity; serialized date code) arranged in a predetermined pattern. Thus, claims 1-8 of the present application were conceived and reduced to practice prior to the effective priority filing date of the ‘673 patent.
10. The Rosson email shows and describes a method of marking a component of a fiber optic assembly with a predetermined pattern of a fiber optic indicia associated with information about the fiber optic assembly by marking a predetermined portion of the surface of the component in accordance with the predetermined pattern of the fiber optic indicia. Thus, claims 9-20 of the present application were conceived and reduced to practice prior to the effective priority filing date of the ‘673 patent.
11. The Rosson email shows and describes a method of marking a ferrule of a fiber optic assembly with a predetermined pattern of a fiber optic indicia associated with information about the fiber optic assembly by marking a predetermined portion of the surface of the ferrule in accordance with the predetermined pattern of the fiber optic indicia. Thus, claims 21-23 of the present application were conceived and reduced to practice prior to the effective priority filing date of the ‘673 patent.

12. The 2002/3934 application is a division of U.S. Patent Application No. 09/429,644 filed on October 29, 1999, which issued on August 28, 2001 as U.S. Patent No. 6,282,353 (“the ‘353 patent) and a division of U.S. Patent Application No. 09/429,641 filed on October 29, 1999 (“the ‘641 application”). Thus, the 2002/3934 application claims the benefit of priority from the earlier filed ‘353 patent and the ‘641 application.
13. With regard to the inventions of claims 12 and 13 of the present application, the 202/3934 application, the ‘353 patent and the ‘641 application merely disclose a label or sleeve for protecting one or more optical fiber fusion splices. The label is provided with a unique indicium, such as a serial number in alphanumeric and/or barcoded forms. See Abstract at lines 1-4.
14. The inventions embodied in claims 12 and 13 of the present application were completed (i.e., conceived and reduced to practice) in this country or in a NAFTA or WTO member country before October 29, 1999, the effective priority filing date of the 2002/3934 application.
15. Furthermore, with regard to the inventions of claims 12 and 13 of the present application, the 2002/3934 application *provides no disclosure* that: marking the predetermined portion of the surface of the component of the fiber optic assembly comprises laser etching the predetermined portion of the surface (i.e., claim 12); or marking the predetermined portion of the surface of the component of the fiber optic assembly comprises applying color to the predetermined portion of the surface (i.e., claim 13).
16. The inventions embodied in claims 1-23 of the present application were known to work for their intended purposes prior to May 25, 1999 and October 29, 1999.
17. The date of issue of the ‘673 patent is not more than one year earlier than the date of filing of the present application.

18. All statements made herein of our own knowledge are true and all statements made herein on information and belief are believed to be true.
19. We acknowledge that we have been duly warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001), and may jeopardize the validity of the present application or any patent issuing thereon.

Signed and dated,

By: Paul A. Fleenor Date: 11-11-03
Paul A. Fleenor

By: Dennis M. Knecht Date: 11-11-03
Dennis M. Knecht

By: Joel C. Rosson Date: 11/11/03
Joel C. Rosson

EXHIBIT A

EXHIBIT A
TO DECLARATION UNDER 37 C.F.R. 1.131 OF INVENTORS
PAUL A. FLEENOR, DENNIS M. KNECHT AND JOEL C. ROSSON

Joel Rosson

10/01/1998 02:29 PM

Tok

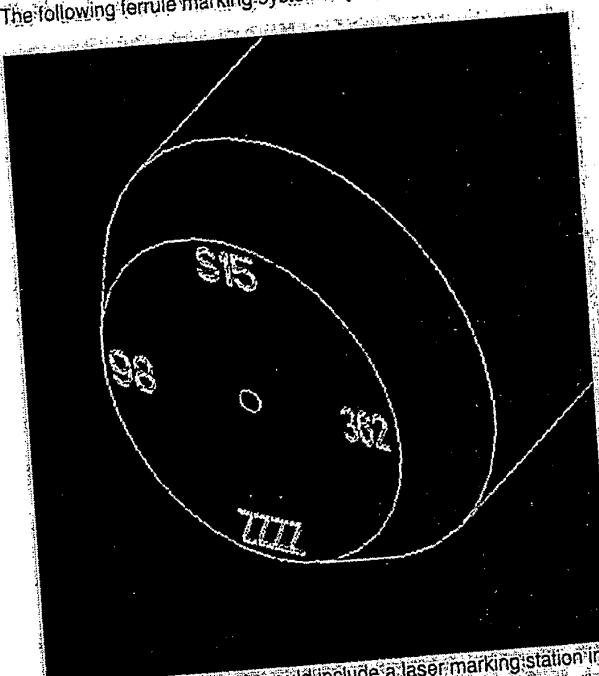
Dennis Knuehl

Fleenor

Subject: Connector Serial Number / Ferrule Marking

Subject: Connector Serial Number / Ferrule Marking
The following ferrule marking system is proposed which could kill several birds with one stone.

Paul



Our latest tuning system could include a laser marking station in which valuable information is written on the ferrule face. The letters are shown to scale in the above picture. The letters are tall and would be etched into the ceramic. Due to the radius tip, the letters are far from the contact footprint of the mated connector. The information to be written is:

the proposed to be written is:

Information proposed to be included in the label:
2. M to identify single or multi mode. 3. 125.5 and 126.0 ferrules.

A digit for the actual concentricity measurement.

DO NOT STRETCH OR KNOT THE CABLE

Other info proposed is a full serialized date code which would eliminate the requirement to
try. We would need only enough systems to meet the ferrule tuning requirements.

[REDACTED]